

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ARTHUR LENARD AUSTIN,

Petitioner,

v.

JOHN SNAZA,

Respondent.

Case No. C22-5567-JHC-MLP

ORDER TO SHOW CAUSE

Petitioner Arthur Austin is currently confined at the Thurston County Jail in Tumwater, Washington, where he is awaiting trial on various assault charges filed in three separate Thurston County Superior Court criminal cases. Petitioner's mother, Mary Austin, has filed on Petitioner's behalf petitions for writ of habeas under 28 U.S.C. § 2254 challenging each of Petitioner's three pending state court criminal cases, and the one at issue here pertains to Petitioner's pending vehicular assault case, Thurston County Superior Court Case No. 22-1-00257-34.¹ (*See* dkt. # 1 at 1.)

¹ Also pending in this Court are *Austin v. Snaza*, Case No. C22-5566-JCC-TLF, which pertains to Thurston County Superior Court Case No. 22-1-00027-34 (charging attempted robbery in the second degree – domestic violence, assault in the fourth degree, assault in the second degree – domestic

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1 Petitioner's primary ground for relief appears to be that his speedy trial rights have been
2 violated in his underlying criminal case. (*See* dkt. ## 1 at 1, 5, 7-8; 1-1 at 2-15.) However, the
3 petition also references other alleged infirmities in Petitioner's ongoing state court criminal
4 proceedings and raises concerns about the treatment Petitioner has received during his
5 confinement at the Thurston County Jail. (*See id.*) Petitioner, in his request for relief, asks that he
6 be immediately released from custody. (Dkt. # 1-1 at 16.)

7 The Court first observes that Petitioner may not seek relief under 28 U.S.C. § 2254 which
8 is available only to persons who are "in custody pursuant to the *judgment* of a state court." 28
9 U.S.C. § 2254(a) (emphasis added). As Petitioner has not yet been convicted in the state court
10 criminal case he seeks to challenge in the instant habeas action, he is not confined pursuant to a
11 judgment of the state court and, thus, § 2254 provides no avenue for relief at this juncture.

12 Even assuming the Court were to construe Petitioner's petition as one filed under the
13 general habeas statute, 28 U.S.C. § 2241, he would still not be entitled to the relief he seeks in
14 this action. Because Petitioner is awaiting adjudication of his pending criminal charges in
15 Thurston County Superior Court, resolution of Petitioner's claim that his speedy trial rights have
16 been violated would necessarily require this Court to become involved in his ongoing state court
17 criminal proceedings. Addressing the additional infirmities in the state court criminal
18 proceedings referenced in Petitioner's materials would likewise require this Court to become
19 involved in those proceedings.

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22 violence), and *Austin v. Snaza*, C22-5568-BHS-DWC, which pertains to Thurston County Superior Court
23 Case No. 22-1-00429-34 (charging custodial assault).

1 Generally, the federal courts will not intervene in a pending state court criminal
2 proceeding absent extraordinary circumstances where the danger of irreparable harm is both
3 great and immediate. *See Younger v. Harris*, 401 U.S. 37 (1971). *Younger* requires a federal
4 court to abstain from interference with pending state judicial proceedings when: “(1) there is ‘an
5 ongoing state judicial proceeding’; (2) the proceeding ‘implicate[s] important state interests’; (3)
6 there is ‘an adequate opportunity in the state proceedings to raise constitutional challenges’; and
7 (4) the requested relief ‘seek[s] to enjoin’ or has ‘the practical effect of enjoining’ the ongoing
8 state judicial proceeding.” *Arevalo v. Hennessy*, 882 F.3d 763, 765 (9th Cir. 2018) (quoting
9 *ReadyLink Healthcare, Inc. v. State Comp. Ins. Fund*, 754 F.3d 754, 758 (9th Cir. 2014)).

10 All of the *Younger* criteria are satisfied here. First, Petitioner is a pre-trial detainee with
11 ongoing state proceedings. Second, as these proceedings involve a criminal prosecution, they
12 implicate important state interests. *See Kelly v. Robinson*, 479 U.S. 36, 49, (1986); *Younger*, 401
13 U.S. at 43-44. Third, Petitioner has failed to allege facts showing he has been denied an adequate
14 opportunity to address the alleged constitutional violations in the state court proceedings. Indeed,
15 Petitioner indicates in his petition that he is currently seeking relief in the state courts with
16 respect to this speedy trial claim. (Dkt. # 1 at 2.) Fourth, Petitioner seeks release from custody
17 based on the alleged violation of his speedy trial rights. If this Court were to conclude that
18 Petitioner was entitled to such relief, this would have the practical effect of enjoining Petitioner’s
19 ongoing state court proceedings. Accordingly, *Younger* abstention appears to apply in this case,
20 and Petitioner must therefore show cause why this federal habeas action, even if construed as one
21 filed under § 2241, is not subject to dismissal.

22 To the extent Petitioner complains about the conditions of his confinement at the
23 Thurston County Jail, including being confined in segregation for an extended period of time,

1 being denied pencil, paper, and legal documents, and being assaulted by the jail staff and other
2 inmates, Petitioner's claims are more properly raised in an action under 42 U.S.C. § 1983 as such
3 claims do not provide any basis for Petitioner's release from custody.

4 Finally, as noted above, the instant petition has been filed by Petitioner's mother, acting
5 on Petitioner's behalf. The federal habeas statute provides that the "[a]pplication for a writ of
6 habeas corpus shall be in writing signed and verified by the person for whose relief it is intended
7 or by someone acting in his behalf." 28 U.S.C. § 2242. Federal courts recognize that under
8 appropriate circumstances, habeas petitions can be brought by third parties, such as family
9 members or agents, on behalf of a prisoner – which is known as next-friend standing. *Whitmore*
10 *v. Arkansas*, 495 U.S. 149, 161-64 (1990). The prerequisites for "next friend" standing in habeas
11 proceedings are: (1) that the "next friend" provide an adequate explanation – such as
12 inaccessibility, mental incompetence or other disability – as to why the real party in interest
13 cannot appear on his own behalf to prosecute the action; and (2) that the "next friend" must be
14 truly dedicated to the best interests of the person on whose behalf he seeks to litigate. *See id.*

15 Petitioner's mother appears to indicate in the petition that she is proceeding on
16 Petitioner's behalf because the Thurston County Jail will not provide Petitioner pencil or paper,
17 nor will they take him to court, and he therefore does not have access to the means necessary to
18 present his complaints without assistance. (*See* dkt. # 1 at 15.) The Court is not fully persuaded,
19 based on the record currently before it, that Petitioner would not be able to appear on his own
20 behalf and prosecute this action if required to do so. Thus, assuming Petitioner is able to
21 demonstrate that this action should proceed, the Court will require that Petitioner's mother make
22 a more detailed showing establishing that she meets the prerequisites for "next friend" standing.

1 Based on the foregoing, this Court hereby ORDERS as follows:

2 (1) Petitioner shall show cause not later than *thirty (30) days* from the date on which
3 this Order is signed why this action should not be dismissed. Failure to timely respond to this
4 Order will result in a recommendation that this action be dismissed.

5 (2) Petitioner's request for preliminary injunctive relief (dkt. # 3) is STRICKEN.

6 (3) The Clerk is directed to send copies of this Order to Petitioner, to Petitioner's
7 mother², and to the Honorable John H. Chun.

8 DATED this 2nd day of September, 2022.

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11 MICHELLE L. PETERSON
12 United States Magistrate Judge
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23 ² The address for Petitioner's mother can be found at dkt. # 1-1 at 16.